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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,537	11/13/2003	David Charles Boutcher	ROC920030208US1	9180

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EXAMINER

SEYE, ABDOU K

ART UNIT	PAPER NUMBER
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2194

MAIL DATE	DELIVERY MODE
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11/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,537

Applicant(s)

BOUTCHER ET AL.

Examiner

Abdou Karim Seye

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25, 28-32 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 28-32 and 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The amendment filed on August 16, 2007 has been received and entered. The amendment amended Claims 6, 12, 25, 32 and 40 and cancelled claims 26-27, 33-34 and 41-42. The currently pending claims considered below are Claims 1-25, 28-32 and 35-40.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 25, 32 and 40 are not limited to statutory embodiments. In view of Applicant's disclosure, specification (see page 9, paragraph 1), the medium is not limited to physical articles or objects embodiments, instead being defined as including both physical articles or objects embodiments (e.g., CDs) and non physical embodiments (e.g., data signals , transmission type media and communication link). The non physical embodiments are a form of energy. Energy does not fall into a statutory category of invention and therefore these claims are not statutory.

To overcome this type of 101 rejection the applicant needs to amend the specification to be limited to physical articles.

Dependent claims 28-31 and 35-39 are also affected by claims 25 and 32 rejections.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-25, 28-32 and 35-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Lescouet et al. (US 20040205755).

As to claim 1, Lescouet teaches, an apparatus and method comprising:

at least one processor (FIG. 1; paragraph 30);

a memory coupled to the at least one processor (FIG. 1; paragraph 30);

a pause/resume mechanism residing in the memory and executed by the at least

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one processor, the pause/resume mechanism sending a pause message when a first operating system needs to be restarted to at least one other operating system that is using a shared resource that is also used by the first operating system, the pause/resume mechanism sending a resume message to the at least one other operating system after the first operating system is restarted (abstract, paragraph 49 and 54-59) .

As to claim 2, Lescouet teaches, wherein the pause/resume mechanism receives a pause complete message from each other operating system to indicate each other operating system has completed pending accesses to the shared resource (paragraph 63).

As to claim 3, Lescouet teaches, wherein the pause/resume mechanism disconnects the first operating system from the second operating system before the first operating system is restarted (paragraph 63 and 68-69).

As to claim 4, Lescouet teaches wherein the pause/resume mechanism reconnects the first operating system to the at least one other operating system after the first operating system is restarted (paragraph 65-68).

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As to claim 5, Lescouet teaches, wherein the resume message indicates that the first operating system is ready to resume sharing the shared resource with the at least one other operating system (paragraph 56-57).

As per claims 7-11, 14-17, 19-23, 28-31, 35-39, they are rejected for the same reasons as the claims above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Zalewski et al (US 20020016892) discloses a multiprocessor computer architecture with multiple operating system instances and software controlled resource allocation.

Lescouet et al (US 20070074223) discloses an operating systems.

Sekiguchi et al (US 6253320) discloses an operating system rebooting method.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone

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number for formal or official faxes to Technology Center 3600 is (571) 273-8300.

Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS

October 18, 2007


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER